

31A-28-208. Assessments.

(1) (a) To provide the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers at the time and in the amount the board finds necessary.

(b) An assessment under this section:

(i) is due not less than 30 days after written notice to the member insurers; and

(ii) accrues interest to the extent unpaid after the due date at the greater of:

(A) 10% per annum; or

(B) the then legal rate of interest provided in Section 15-1-1.

(2) An assessment is to be made in the amount necessary to carry out the powers and duties of the association under Section 31A-28-207 for an insolvent insurer.

(3) An assessment against a member insurer is in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance for which this part applies bears to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance for which this part applies.

(4) A member insurer may not be assessed in any year for an amount greater than 2% of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance for which this part applies.

(5) If the maximum assessment, together with the other assets of the association in the association account, do not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon as funds become available.

(6) The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance.

(7) Each member insurer may set off against any assessment authorized payments made on covered claims and expenses incurred in the payment of the claims by the member insurer, if they are chargeable to the association account.

Amended by Chapter 308, 2002 General Session